

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 151 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed  
to see the judgements? No

2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy  
of the judgement? No

4. Whether this case involves a substantial question  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?  
No

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HANSABEN R DHODI

Versus

STATE OF GUJARAT

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Appearance:

MR ISHVERLAL J NAIK for Petitioner

Ms Harsha Dewani, A.G.P. for respondents no.1 & 2

MR KETAN A DAVE for Respondent No. 3

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CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 04/02/97

ORAL JUDGEMENT

Learned Counsel for the petitioner seeks  
permission to delete respondents no.3 & 4 from the  
petition, as they are not necessary parties for deciding

issue involved in the petition. Permission to delete respondents no.3 & 4 as prayed for is granted.

Rule. Ms. Harsha Dewani, learned A.G.P. waives service of notice of rule on behalf of respondents no.1 & 2. Mr. Ketan Dave, learned Standing Counsel for Central Government waives service of notice of rule on behalf of respondent no.3 i.e. Collector, Daman District.

At the request of learned Advocates appearing for the parties, the petition is heard today.

By means of filing this petition under Article 226 of the Constitution, the petitioner has prayed to issue writ of certiorari or any other appropriate writ, direction or order to quash and set aside order dated December 27, 1996 passed by the respondent no.2 by which nomination of the petitioner for admission in P.T.C. course is ordered to be deleted.

On notice being served, Mr. M.N. Valu, Deputy Director of Primary Education has filed affidavit-in-reply controverting the averments made in the petition.

Learned Counsel for the petitioner submitted that the impugned order is passed by respondent no.2 without hearing the petitioner and as principles of natural justice are violated, the impugned order deserves to be set aside. The fact that before rendering the impugned decision, the petitioner was not heard, is not in dispute. Before ordering cancellation of nomination of the petitioner for admission in P.T.C. course, the petitioner ought to have been heard by respondent no.2. As the impugned order is passed contrary to the principles of natural justice, it is liable to be set aside and quashed.

For the foregoing reasons, the petition partly succeeds. The impugned order dated December 27, 1996 passed by respondent no.2 is hereby set aside and quashed. Respondent no.2 is directed to decide the matter after affording reasonable opportunity of being heard to the petitioner. The petitioner is directed to make representation before respondent no.2 by the end of this week. The representation which may be made by the petitioner shall be taken into consideration by respondent no.2 and thereafter only the decision will be rendered. Till the decision is rendered, the impugned order shall not be implemented. Rule is made absolute to the extent indicated hereinabove, with no order as to

costs.

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